

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DR. HANSEL M. DEBARTOLO,)	
)	
Plaintiff,)	NO. 07 C 7179
v.)	
)	HON. JUDGE ZAGEL
)	
)	MAGISTRATE JUDGE KEYS
SUBBURBAN TEAMSTERS OF)	
NORTHERN ILLINOIS WELFARE)	
FUND,)	
Defendant.)	

FIRST AMENDED COMPLAINT AT LAW

COUNT I

NOW COMES the Plaintiff, Dr. Hansel M. DeBartolo, by and through his attorneys, Hoevel & Associates, P.C., and complains of the Defendant, Suburban Teamsters of Northern Illinois Welfare Fund, as follows:

1. Plaintiff is a physician licensed to practice in the State of Illinois and maintains a medical practice at 11 DeBartolo Dr., Sugar Grove, Illinois.
2. Defendant is a self-funded employee benefit plan providing health insurance coverage to its enrollees and their dependants, including an individual named Jimmy Null (hereinafter referred to as "Insured").
3. That on or about March 7, 1997 through April 21, 1997, the Plaintiff, at the special instance and request of Insured, provided and delivered to the Insured, professional medical services for the fair and reasonable value and price of \$19,533.00 of which there is a balance due and owing of \$8,503.99.

4. On or about the treatment dates, Insured requested of the Plaintiff that it provide medical services and treatment and to induce Plaintiff to do so, Insured assigned in writing to the Plaintiff all rights and benefits under the aforementioned policy for health insurance benefits. As copy of said assignment is attached as Exhibit A.
5. Defendant acknowledged Insured's assignment of benefits, by forwarding payments to Plaintiff totaling \$11,029.11 for some of the medical services furnished by Plaintiff.
6. The Insured and the Plaintiff at all times complied with the terms and conditions of said health insurance policy herein mentioned.
7. Insured's medical condition treated by the Plaintiff was a loss or damage covered by said policy.
8. Plaintiff has exhausted all administrative remedies.
9. That after repeated oral and written demands for the balance of payment of the policy benefits, the Defendant has failed and refused and still fails and refuses to pay said sum or any part thereof to the Plaintiff.
10. That by denying the policy coverage and policy benefits payable for its insured, Defendant has wrongfully breached said written contract for health insurance.
11. That suit is now brought pursuant to E.R.I.S.A. 29 U.S.C. Section 1132 (a)(1)(B), which provides:

“A civil action may be brought by a participant or beneficiary to recover benefits due him under the terms of his plan, to enforce his rights under the terms of the plan, or to clarify his rights to future benefits under the terms of the plan...”

12. Pursuant to 29 U.S.C. Section 1132(g)(1), Plaintiff may recover reasonable attorneys fees.

WHEREFORE, the Plaintiff, Dr. Hansel M. DeBartolo, demands judgment against the Defendant, Suburban Teamsters of Northern Illinois Welfare Fund, for the sum of \$8,503.99, together with the costs of this action, reasonable attorneys' fees and interest as provided by statute.

COUNT II

13. Plaintiff restates and realleges the allegations contained in paragraphs 1 through 12, inclusive, as this paragraph 13, and incorporates each by reference, here.

14. On or about December 29, 2005, Plaintiff requested of Defendant, in writng, to furnish Plaintiff with information regarding the Plan pursuant to 29 U.S.C. Section 1132 (c). A copy of said request is attached hereto as Exhibit B.

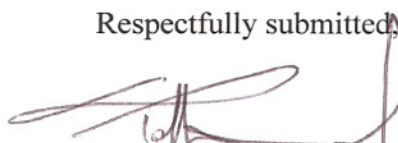
15. Defendant failed or refused to respond to the aforesaid request or to furnish any information of the type requested to Plaintiff.

16. Pursuant to 29 U.S.C. Section 1132 (c)(1), a plan administrator is subject to fines if the plan administrator violates 29 U.S.C. Section 1024(b)(4), which states:

The administrator shall, upon request of any participant or beneficiary, furnish a copy of the latest updated summary plan description, and the latest annual report, any terminal report, the bargaining agreement, trust agreement, contract, or other instrument under which the plan is establish or operated.

WHEREFORE, the Plaintiff, Dr. Hansel M. DeBartolo, demands judgment against the Defendant, Suburban Teamsters of Northern Illinois Welfare Fund, for the sum of \$115.00 per day for each since December 29, 2005, that Defendant failed or refused, and continues to fail or refuse, to furnish such information to the Plaintiff, together with the costs of this action, reasonable attorneys' fees and interest as provided by statute.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'T. Hoevel', is written over a horizontal line.

Hoevel & Associates, P.C.
Attorneys for Plaintiff

Talbot C. Hoevel
Hoevel & Associates, P.C.
3725 N. Western Avenue
Chicago, IL 60618
Ph: 773-539-0937
Fax: 773-539-2201
ARDC #6194281

EXHIBIT A

DATE: 3-7-97

NAME: Jimmy W Null

I assign my medical benefits and rights from TEAMsters Local No 142

to Dr. H.M. DeBartolo Jr., for services rendered.

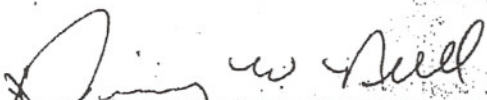

Signature of Insured

EXHIBIT B

[REDACTED]

HANSEL M. DEBARTOLO, JR., M.D., J.D.
11 DeBartolo Drive
Sugar Grove, Illinois 60554
630-859-1818
Fax: 630-859-1830

December 29, 2005

Claims Office
7045 N. Western Avenue
Chicago, IL 60645-3488

Re: Jimmy Null
Patient ID #: 336-58-1553
Group #: None
Patient D.O.B.: 7/25/59
Date(s) of Service: 4/15/97
Claim ID: 97018130-03

TO WHOM IT MAY CONCERN:

We wish to once again formally appeal the amount allowed for this procedure. More should have been allowed.

We still have not heard back from our original protest sent back on Wednesday, March 25, 1998. I have enclosed this original request as well as all information previously sent to you regarding this claim for your convenience.

We are also requesting a copy of the plan summary so we can determine for ourselves what is covered, your failure to provide the requested plan information could subject your organization to penalties of \$110 per day. Please provide the requested information immediately.

Please see attached copies.



Hansel M. DeBartolo, Jr., M.D., J.D.
ekd

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 		A. Signature X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
		B. Received by (Printed Name)	C. Date of Delivery
1. Article Addressed to: Suburban Teamsters of Northern Illinois Welfare Fund 1275 W. Roosevelt Rd. Unit 121 West Chicago, IL 60185		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
2. Article Number (Transfer from service label) 7007 0710 0003 4428 1440		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
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PS Form 3800, August 2006 See Reverse for Instructions	

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Postmark Here	
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PS Form 3800, August 2006 See Reverse for Instructions	